

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
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EXECUTIVE BOARD  
February 9, 2005  
LR 16CA, 14CA, 3CA, 5CA

The Executive Board met on Wednesday, February 9, 2005, at noon in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR 16CA, LR 14CA, LR 3CA and LR 5CA. Senators present: L. Pat Engel, Chairperson; Jim Cudaback, Vice Chairperson; Chris Beutler; Kermit Brashear; Ernie Chambers; Philip Erdman; Vickie McDonald; Arnie Stuthman; and Nancy Thompson. Absent: Don Pederson.

SENATOR ENGEL: I think we'll proceed. We do have a quorum. Others will be coming so good afternoon, ladies and gentlemen, and welcome to the public hearing of the Executive Board of the Legislative Council. I'd like to introduce to you members of the board and the board staff and briefly explain the procedures we'll try to follow this afternoon. On my right is Janice Satra, the legal counsel for the Executive Board; Senator Jim Cudaback from Riverdale, the Vice Chair of the board; Senator Kermit Brashear from Omaha and also Speaker of the Legislature; Senator Phil Erdman from Bayard, Nebraska, that's out in western Nebraska; I'm Pat Engel from South Sioux City, Nebraska. On my left is Beth Otto, she's the committee clerk of the council. We have Senator Vickie McDonald from Rockville; and Senator Arnie Stuthman from Platte Center. And like I say, others will be here. Now these proceedings are recorded and will be transcribed. So if you have a cell phone with you, would you please turn it off, at least the ringer. And the board will first hear testimony from the introducer of the bill, followed by those in favor of the bill being considered, then testimony in opposition, and then neutral testimony. I would like to limit the introducer to five minutes if possible and all the rest I'd like to have you keep it short and concise because we do have, I think, several testifiers here today. And I'd also appreciate if you have something to add, please have that in your testimony, but please don't repeat what we've already heard. I would appreciate that very much. Now sign-in sheets are available at the testifier table so please fill those out completely before you come up to testify and place it in the box. And when you testify, please state your name and spell it for the record. So if you do plan to testify, please come up to the front row to allow for a smooth transition between testifiers. Another form for those who

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wish to support or oppose a bill without publicly testifying is also available. And if you have printed materials, please give them to the page so he can distribute to the council and we will need 15 copies of this material. And if you do not have enough copies, he can have them produced for you. Now the first bill today is LR 16CA by president, excuse me, will be introduced by Senator "Shock," Schrock rather. (Laugh) Sometimes he will shock you, but it is Senator Schrock, I'm sorry. So can we have a show of hands of those planning to testify for the bill? Four. And of those planning to testify against the bill? Two. And any of those in a neutral capacity? Okay, thank you. So, Senator "Shock," the shocker, will you please proceed.

LR 16CA

SENATOR SCHROCK: Senator "Angel," thank you. For the record, my name is Ed Schrock from the 38th Legislative District, that's spelled S-c-h-r-o-c-k. LR 16CA, if placed on the ballot in the fall of 2006, would give the voters of Nebraska the opportunity to extend term limits from the current limitation of two years to three...I'm sorry, two terms to three terms. In other words, you can serve 8 years instead of 12. For those who are appointed to the Legislature, they could serve three terms plus any partial, not exceeding two years. This is not something to save my hide. I will make it very clear to you that the seven counties I serve overwhelmingly voted for term limits--haven't met one who said they voted for term, I met a few, most of them said they made a mistake. This does not save my hide. It does not save Senator Cudaback's hide. I'm not interested in that. I do think that there is some value to term limits because I don't think most people want career politicians in the state Legislature. But I think we have a unique set of circumstances in this state. It's my understanding there's only 15 states now with term limits. We are unique because we're the only one-house-bodied state and you can't jump from one house to another. I think in most states that have term limits you can probably serve at least 12, if not 16, years because you can run for one house and then the other. So I think it's appropriate that we give the voters a chance to say, hey, maybe we do want our senators to serve 12 years. This would give Senator McDonald and Senator Stuthman a chance to serve another term

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because Senator Stuthman is still on his first term. Senator McDonald is an odd-numbered district so if this was on the ballot in 2006 and would pass, she could run another term. Like I said, it would not save Senator Cudaback. It would not save Senator Chambers. It would be a three-term limitation and any partial not exceeding two years. It's really kind of...term limits is really kind of tough on some appointed senators because I believe Senator McDonald, Senator Cunningham, and Senator Joel Johnson are essentially limited to six years, maybe seven years in your case. So I don't know if that's fair to the constituents that elected them here. Just another thing, I think this is a little economic development. I understand U.S. Term Limits has a big war chest. I think they ought to spend some of that money in the state of Nebraska and get to know Nebraskans better, and so I'm in favor of that also. So whether you put mine on the ballot or somebody else's on the ballot, I think it would be a good idea. With that, I will answer any questions.

SENATOR ENGEL: Before we ask questions, we have been joined by Senator Nancy Thompson from Papillion and Senator Ernie Chambers from...on my right from Omaha. Are there any questions of Senator "Shock"? Anyone have any questions for Senator Schrock?

SENATOR SCHROCK: I can't think of any circumstances that would want me to close on this bill.

SENATOR ENGEL: Okay, thank you very much. Okay, thank you, Senator Schrock. Other proponents, please.

RANDY BOLDT: Good afternoon, Chairman Engel, members of the Executive Board. My name is Randy Boldt, it's B-o-l-d-t. I come to you as a private citizen speaking only for myself this afternoon. I am in support of LR 16CA and in fact wish to note the conceptual support for any of the four resolutions before you dealing with term limits today. I speak for the record imploring this body to allow me and citizens of like persuasion to campaign for the right to reenfranchise ourselves. We do not need constitutional barriers to individual determination. Clearly Nebraskans know how to recognize good and treasure it. Alternatively, however, we can and have been swift and decisive when and if the time comes to get rid of less than satisfactory

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political representation. And I would also add at this point be very wary of the vendors of distortion who come from beyond our borders to disenfranchise us or continue to hold the lock on disenfranchising me specifically. Please reopen the door to regaining our voting rights. That's all I have to say. I'll answer questions if you choose.

SENATOR ENGEL: Any questions of Mr. Boldt? If not, thank you, Randy. Next proponent.

LYNN REX: Senator Engel, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We will be here in support of all of these measures today, but I did want to tell you that we think that basically the only thing on which we disagree with Senator Schrock relative to this measure is that he said that he thinks there's some merit in term limits. Our board thinks there is no merit in term limits because, in fact, what you're doing is simply precluding the right of citizens to vote in the future. And for those proponents of these measures today, I'm real anxious to see whether or not they have put all of their financial...all their finances in a trust because they don't trust themselves to handle their finances in eight years; they don't trust themselves to vote in eight years; they apparently don't trust themselves to make decisions in eight years. And so what we would suggest to you is the Trojan horse out by Abe Lincoln today, the statue of Abraham Lincoln, the Trojan horse is not the repeal of term limits. The Trojan horse is the whole concept of term limits. I'd be happy to respond to any questions you might have.

SENATOR ENGEL: Any questions? Have you signed in?

LYNN REX: I will do that, sir, and put them in. Thank you.

SENATOR ENGEL: Thank you very much, Lynn. Other proponents. Have you signed in, sir?

TOM McCORMICK: Yes, I have.

SENATOR ENGEL: Okay, fine, thank you.

TOM McCORMICK: My name is Tom McCormick. I live here in Lincoln at 1406...

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SENATOR ENGEL: Would you spell that, please.

TOM McCORMICK: M-c-C-o-r-m-i-c-k. And I live at 1406 D Street here in Lincoln. I apologize for not having my remarks better prepared. I came here to take in another hearing and found that this one was going on. And I should have prepared for this one also because it's something I feel kind of strongly about. It seems to me that term limits is one of these ideas that people find to be a really good idea when they first hear about it because we don't want career politicians controlling everything and hogging the space. And after more consideration, most of us I think stop and reconsider and wonder, doesn't this kind of legislation really keep us from choosing the leaders we might want? Now I think that if we really feel that a senator or anybody else in public office is abusing his or her authority, we can either recall them or we can simply not vote for them the next time they run. And it seems to me that all we're really going to do if we say, even if the voters want this senator reelected, they can't be, all we're really doing is increasing the power of lobbyists vis-a-vis the senators because there aren't any term limits on lobbyists, remember. And I remember that no less a personage than Harry Truman when he first heard about the twenty...was it the Twenty-Third Amendment I believe, nobody can be elected to the office of President more than twice, thought it was a good idea. And in his later years he said, this is a monstrosity. It keeps us from electing the President we want. Now I'm saying that even though it's to my own immediate disadvantage because I can't stand any of the last few Presidents we've had, and I would have hated for any one of them to get a third term. But it's not up to me. It's up to the voters of the United States. And I think that when we, as the previous speaker said, all we're doing when we say we can't have this guy, this gal reelected is we don't trust ourselves to make the right decision. Maybe we won't make the right decision, but that's democracy. Democracy is inherently messy and this is one problem I think we should have to deal with if we really believe in popular sovereignty. That's my view.

SENATOR ENGEL: Thank you, Mr. McCormick. Are there any questions of Mr. McCormick? If not, thank you. Are there any other proponents? Have you signed in, sir?

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TIMOTHY BUTZ: (Exhibit 1) Senator Engel, I have not yet but I will. My name is Timothy Butz, executive director ACLU Nebraska. We have positions on all four of these bills, but I'm not going to come up here and burden you four times. The written testimony for each is being passed out by...and you can read it at your leisure. I just want to kind of summarize where we stand on this issue and urge you to send one of these four bills forward to be passed by the Legislature we hope and put on the ballot. ACLU Nebraska has challenged term limits in the courts before. And in the late 1990s when we challenged Nebraska term limits, Judge Urbom, in overturning them wrote this: The legislative floor should be the penultimate marketplace of ideas where through the discussion of myriad opinions, interests, and expression of the many different representatives, the best idea may emerge triumphant for the benefit of all. Term limits totally frustrates that. And beyond that, I think there's a certain conflict that exists between Section 6 of the Nebraska Constitution which defines suffrage and term limits. When you look at Section 6 of the Nebraska Constitution, clearly they envisioned, the people that wrote our constitution, envisioned a broad electorate. And what happens when we have term limits? Well, we disenfranchise the electorate and tell them they can't vote for certain people. We tell people that may be serving the public's good that they're no longer good enough to run. This tension remains and needs to be resolved, and these bills are a way of doing it. To be honest with you, we think LR 16 is the least desirable of them because it doesn't solve the problem. It simply extends the term of service. I guess that's better than nothing, but it would be the least desirable. We think that LR 5 and LR 14 offer the best choices for the public. LR 5 has the recall provision in it which I think the voters might see as a reasonable trade-off for term limits. LR 14, Senator Schimek's bill, is clearly the cleanest of them. It just is upfront and honest and eliminates them. Those bills would be the ones that are most preferable to us. And with that, I'll take no more of your time unless there's questions.

SENATOR ENGEL: Thank you. Senator Cudaback.

SENATOR CUDABACK: Do you think in the eyes of the public for or against, there's any difference whether it comes from

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the Legislature or if it comes from an initiative of the people, whatever?

TIMOTHY BUTZ: I'm sure that people will try and make political hay out of the source of it. And I guess whether they're able to succeed with demonizing a proposal coming out of the Legislature because they view it as coming from people with vested interests is going to be something that's going to have to be fought in that marketplace of ideas. I think that those of us who are here today supporting the elimination of term limits are going to have to step up to the plate in any subsequent election and make it known that you're acting simply because people came to you and asked you to do something. This term limit thing is not coming out of the desire of any senator I know to remain in office. It's coming about because people are realizing what a disastrous course of action or disastrous road we're on when term limits start taking effect and this body loses its senior leadership and its institutional memory. We are going to be in a position where I'm a registered lobbyist. And although I lobby for a nonprofit, there's other people that make a very good living doing it for profit. And those people are going to be the institutional memory for this body, not the elected representatives of the people and that's intolerable.

SENATOR CUDABACK: I'm not sure the people know that the average stay is only six or seven years now so.

TIMOTHY BUTZ: And, you know, that's...when people decide their time has come and gone, that's their decision. It's the decision of the electorate. But the electorate shouldn't be bound by some artificial measure that kicks you out of office based on anything but merit.

SENATOR CUDABACK: Thank you.

SENATOR ENGEL: Thank you. Any other questions? If not, thank you very much, Mr. Butz.

TIMOTHY BUTZ: Thank you.

SENATOR ENGEL: Any other proponents?

WALT BROER: Senator Engel, members of the committee, my

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name is Walt Broer, that's B-r-o-e-r. I am a registered lobbyist. I'm the executive director for the Nebraska Building Chapter of Associated General Contractors. However, today I am appearing as a private citizen. I was general contractor and I have 52 years of experience in the Midwest. I was one of those young bucks that thought we ought to shut this Capitol down once every two years. I was also on my soapbox, we need term limits so that we can change, get new blood, new ideas into the system. However, in my present position, I've gotten to know government much, much better and appreciate the fact and the job that our legislative body is doing, not only from a state but in the national also. And I'm going to take the about-face, 180 degrees and I'm going to say that term limits is a total error. We have too much knowledge. We listened to Senator David Landis give us a wonderful, wonderful speech yesterday at our meeting on what we need to do to help Nebraska entice more business. You can't take 17 and 18 years of experience like that, no corporation would kick anybody out of office if they're doing a good job. I agree with some of the previous testifiers, let the voters do it. Any questions?

SENATOR ENGEL: Are there any questions? If not, thank you very much, Mr. Broer.

WALT BROER: Thank you.

SENATOR ENGEL: Are there any other proponents? If not, do we have any, I know we do, we have some opponents. Please step forward and make sure you sign the...

DOUG KAGAN: Yes, I've signed.

SENATOR ENGEL: You have, thank you.

DOUG KAGAN: Good afternoon. My name is Doug Kagan, spelled K-a-g-a-n, and I represent Don't Touch Term Limits Nebraska. On three occasions, Nebraska voters have decided to place two-term term limits on state senators. Whether or not you agree with this decision, we ask you to respect the wishes of "we the people" who, according to progressive reformer, Senator George Norris, one of your predecessors, are supposed to be the virtual second house of the Legislature. Term limits serve as a necessary weight for ordinary citizens to balance our Unicameral in governing our state.



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Increasingly, we have seen the Legislature sometimes show a disdain for voters and other citizens who wish to actively participate in the functioning of their government. One example, the growing burdens imposed on the right of Nebraskans to petition their own state government for redress of grievances. Increasingly restrictive signature requirements now make it a Herculean task to place a question on the ballot. Opponents of term limits often speak of the advantages of retaining experience in office. Yet examining this experience illustrates that the Legislature could not balance its budget well during the recent recession without raising tax rates and imposing additional taxes. We do not need such experience in a system that is not working. We need new senators willing to balance the state budget like their own family budget, willing to share officeholding opportunity with the rest of the citizenry and listen to constituent grievances. I personally believe that too few senators understand how the laws they pass affect businesses and individuals who must live under these laws. Opponents argue that term limits enhances the influence of lobbyists and legislative staffers. A survey by the Council of State Governments found that 86 percent of lobbyists and 80 percent of staff members oppose limits. Lobbying PACs usually support incumbents making it difficult for challengers to match this funding. Recent history proves that a Nebraska state senator who wishes to win reelection typically can do so easily with a hefty war chest, often with only nominal or no opposition. Cities and states that have implemented term limits see the number of candidates increase greatly. There exists much controversy here over the spiraling of campaign expenditures. California legislative term limits dramatically have reduced campaign expenditures as races there become more competitive. In conclusion, our Founding Fathers visualized citizen legislators who take leave from their regular professions and jobs to serve the people, not to become career politicians, no insider dealing by a very few powerful legislators controlling an agenda. Volunteer legislators would return home to live under the very laws they passed for the rest of the citizenry. Then we could attract talented people to run for office and create real choices for voters, infusing the Legislature with new ideas and "experience" from the real-life private sector. Thank you.

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SENATOR ERDMAN: Thank you. Any questions? Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Engel. Doug, I am a member of the first class that is affected by the term limits plus several individual senators that were appointed. What do you see as benefits of my class being the first class and we're into it. Give me something positive that means that it's good that the people have voted for term limits.

DOUG KAGAN: I'm not sure I understood the point exactly.

SENATOR STUTHMAN: Are you seeing any benefits already from the term limit thing going or are we going to have to wait till everyone is out?

DOUG KAGAN: Oh, no, Senator. I've been contacted by several people who would like to run for seats in the Legislature. And they've all told me that as these seats become open, as the incumbents are term limited out they do want to run. And the point they make with me is, well, I won't have to battle the power of the incumbency. I won't have to battle a war chest. I won't have to raise so much money to get elected to a state legislative position.

SENATOR STUTHMAN: I would have to differ with you there. I did run against an incumbent that had a war chest. I had very little money and I'm here today. So it is possible without the term limit factor.

DOUG KAGAN: Okay.

SENATOR STUTHMAN: So that, I mean it's an issue that, you know, it doesn't make me a lot of difference. It's in effect right now, but I think the realistic thing is that the people of Nebraska do not realize, you know, the duties of their state senators and how much...how broad of a knowledge that they have to have, not just on one issue, but on many issues like 763 issues you have to have a little bit of knowledge on that.

DOUG KAGAN: Which it takes some years to accumulate that.

SENATOR STUTHMAN: It does, it does, it very well does. It

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very much does. It's not like just a county official where you meet twice a month and have only a few issues and those we're not concerned about them. They can run 40 years. That's my...

SENATOR ENGEL: Senator McDonald.

SENATOR McDONALD: You mentioned that senators that are serving do not understand the laws that we passed. But yet we come from all parts of the state of Nebraska and from all different backgrounds and all different positions. We do have to live up to the laws that we pass. We are not exempt from them. And so you said in your comments that we don't understand the laws we pass and we don't necessarily live by them. We do live by them, whether we're in the private sector, whether we're in the legislative sector. They still affect us. We pass laws for (inaudible) we are not exempt from those laws that we pass. We raise taxes, we pay taxes, just as well as anybody else.

DOUG KAGAN: Um-hum.

SENATOR ENGEL: Are there any other questions? If not, thank you, Mr. Kagan.

DOUG KAGAN: Okay, thank you.

SENATOR ENGEL: Next opponent. Have you...okay.

NYDRA KARLEN: Good afternoon.

SENATOR ENGEL: Good afternoon.

NYDRA KARLEN: I'm Nydra Karlen, the name is spelled N-y-d-r-a...

SENATOR ENGEL: Would you speak into the mike, please.

NYDRA KARLEN: Oh.

SENATOR ENGEL: Thank you.

NYDRA KARLEN: N-y-d-r-a and my last name is Karlen, K-a-r-l-e-n. I live in Bellevue, Nebraska, and I'm chair, the state chair of the Libertarian Party of Nebraska at this

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time.

SENATOR ENGEL: Would you speak up a little, please. I'm sorry. You have a nice quiet voice, but we can't hear you.

NYDRA KARLEN: I also have a new hearing aid so it's kind of hard for me to...

SENATOR ENGEL: Yeah, okay, I'm sorry.

NYDRA KARLEN: ...gauge how loud I'm being.

SENATOR ENGEL: Yeah, if you would please, thank you.

NYDRA KARLEN: So I don't want to blast you. Okay. I live in Bellevue, Nebraska, and I drove down to speak at the Help America Vote hearing, and my testimony must have ended up in the rabbit hole as I never saw it again, even though third parties really were not helped to vote in Nebraska by that bill at all to my way of thinking. My understanding that in Nebraska our constitution makes the people into the second house. The sovereign and the Unicameral, the people are the sovereign and the Unicameral are the representatives. Is that correct--the people are sovereign?

\_\_\_\_\_: The people are sovereign?

NYDRA KARLEN: Excuse me?

\_\_\_\_\_: The people are sovereign you said?

NYDRA KARLEN: Right.

\_\_\_\_\_: I would rather you shouted actually because I think what you're saying is interesting and I can't hear you.

NYDRA KARLEN: Okay. My understanding of our constitution makes the people into the second house. They are the sovereign. Is that correct? In our constitution, are the people not the sovereign?

SENATOR ENGEL: This really isn't a debate right now, but maybe I can get an answer from one of our legal folks here. I believe in sovereignty.

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NYDRA KARLEN: And the Unicameral then are the representatives. Okay? With this relationship in mind, how is it that the Unicameral now attempts to reverse the will of the sovereign which was passed three times in the past? Our Governor is term limited and we seem to manage just fine. Why not eliminate that term limit? We don't seem to lose the institutional memory when the Governor goes away every eight years. Libertarians have no position on term limits per se, but we don't want the clear will of the people to be overridden by people who are supposed to be representatives of the people. It's not as though the sovereign didn't know what they were doing when they petitioned and passed this three different times. We did know what we were doing. And for you to come in an executive committee like this and overrule the people and the sovereign, I don't understand that. Maybe somebody can explain that to me.

SENATOR ENGEL: Well, we as a committee are not overruling anything. We're just having a hearing on particular bills that gives the people a choice to vote again. That's all we're doing here today. We're not overruling anything so.

NYDRA KARLEN: Does this not change the term limited senators to no longer be term limited? Is that not correct?

SENATOR ENGEL: I didn't understand your question.

NYDRA KARLEN: Does this not change the term limited representatives to not be term limited anymore?

SENATOR ENGEL: Well, I don't believe any of these bills do that except one. None of these bills would affect anybody that's here now. It will be on the ballot again is what it will be. It will just be on the ballot again. We don't make those decisions, but your people, our people.

NYDRA KARLEN: But it was already passed three times. Did you think they didn't understand?

SENATOR ENGEL: I'm not going to get into a debate with you. I just want to hear...just like to hear your testimony and then we will have questions.

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NYDRA KARLEN: That's my question.

SENATOR ENGEL: After you're done, we'll have questions and then they can ask questions and you can answer them.

NYDRA KARLEN: Okay, I'm done. I'm done.

SENATOR ENGEL: Are you? Well, thank you very much for your testimony. Are there any questions of anyone else? Okay. Thank you very much, I appreciate it. Are there any other proponents, opponents rather? Sir, yeah.

PAUL ANDERSON: I'm Paul Anderson. I live in Omaha at 6626 Cuming Street. I would like to start by saying I have had the privilege as well as the honor in running for the Legislature in 1994 when it was an open seat and again in 1998 when my opponent was the incumbent and is now my current state senator. To the state senators who favor changing or repealing our constitutional law pertaining to term limits I must say what an arrogant, condescending slap across the face to all Nebraska voters who voted for this law. In my '98 legislative campaign, I supported term limits. And in the 2000 election, the majority of Nebraska voters, their third attempt, finally were successful in getting it enacted into law. All of these amendments, in my opinion, are clear evidence that some of you senators may have forgotten as to who and why elected you to the Legislature. Why, when our Founding Fathers created our nation's constitution it is my belief and opinion they never intended for any elected representative at all levels to make a career of it. In conclusion, Nebraska is not the only state I'm sure that has term limits and I am sure we won't be the last. It is my fervent request to the senators who introduced these to please consider withdrawing these amendments and give them the opportunity to see if they will work. This is what the people wanted. Thank you.

SENATOR ENGEL: Thank you, Mr. Anderson. Are there any questions of Mr. Anderson? Senator Beutler.

SENATOR BEUTLER: It sounds as if you're highly respectful of the Founding Fathers, and I think everybody in this room would be. But did they ever suggest, either with respect to the Congress or with respect to the presidency or with respect to state offices that there ever should be a limit

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of terms?

PAUL ANDERSON: I don't believe so.

SENATOR BEUTLER: No, sir, they didn't. Thank you.

SENATOR ENGEL: Are there any other questions? If not, thank you very much, Mr. Anderson. Any other opponents?

DON HOPPES: My name is Don Hoppes. I live ten miles south of here.

SENATOR ENGEL: Would you spell your last name, sir.

DON HOPPES: H-o-p-p-e-s. I'm here representing the Reform Party of Nebraska. I'm the Nebraska state chair. And this last fall they asked me if I would help them in retaining this...all of these bills that we have voted for and passed. We voted for I-300, that to get away from the gambling, and also the term limits. It seems as though our term limits is holding us up and trying to put gambling back in Nebraska where it does not belong and trying to get rid of 300 which we should not. Now our organization is wholeheartedly to retain term limits as it is. Questions?

SENATOR ENGEL: Thank you. Any questions of Mr. Hoppes? If not, thank you very much. Are there any other opponents? I see none. Is there anyone testifying in a neutral capacity? Senator Schrock, would you like to close? Senator Schrock waives closing. That will end the hearing on LR 16CA. And next up is Senator DiAnna Schimek with LR 14CA. We'll follow the same procedures. And I know Senator Schimek is having a little headache today so we'll be quiet and we'll listen very profusely to what you're going to say.

LR 14CA

SENATOR SCHIMEK: (Exhibits 2 and 3) You are very kind. Thank you. Mr. Chairman and members, thank you for allowing me to testify before your committee on this issue. I would like to say upfront that this issue doesn't affect me. In fact, I don't plan to ever run for the Legislature again. I will have served 20 years and that is enough for anybody. Senator Chambers isn't here so he didn't hear me say that,

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but it's enough for me. And in fact, if it weren't for term limits, I probably wouldn't have run for another four-year term. But I decided that half of our Legislature was going to be gone in two years and that the more experience we had around the better off it would be. So that's where I'm coming from. I don't believe that this has to do with how you're personally affected. I think it has to do with the institution. We have a very unique Unicameral institution. And I believe that term limits in Nebraska is more devastating here than it is in any other state. And I do have some handouts that I would like to distribute to the committee if I could to try to bring you up to date a little bit on what's been going on with this issue across the nation. First of all, you already heard that there are 15 states that have term limits. Now that's down incidentally. Nebraska, of course, has eight years total. Oklahoma, if you'll look at the first chart, has 12-year lifetime ban. All other states with term limits are allowed to serve terms in both houses which lessens the loss of institutional memory. In Nebraska and other states, eight years really gives little time to senators to develop leadership, either within the state or nationally. And I would say in some senses you spend your first four years, as you all know, learning the ropes, learning the issues, learning the process. And you spend your last four years, you will spend your last four years being a lame duck, an incumbent. And I think that has negatives too. I mean at some point if you're in your last term and know you aren't coming back, do you feel as, you should, but would you feel as responsible back to the voters? I think that's a possible danger. But the effect of term limits is the weakening of the legislative branch. And if you have one reason that governors have term limits is because they're very powerful. They are one person and they provide huge direction to the state. It's the legislative branch and the judicial branch who are checks on the executive branch. I don't think it applies to the legislative branch the same as it does to the executive branch. In six states, you'll see on one of your charts, term limits have been repealed by the legislature or by the court itself. And actually the two states that have taken the issue back to the voters and repealed it are Utah and I believe Idaho; Idaho and Utah. And then there are four states that have actually repealed term limits through their courts. And so since 2002, there have been four states that have repealed term limits. You'll see on



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another handout that in 2004 190 house members and 67 senate members were termed out. The handout goes on to show how many leaders and committee chairs were forced out because of term limits, specifically 32 leaders, which includes speakers and presidents when they have the second house, and 122 committee chairs. I remember being in California for a workshop about three years ago and they had the chair of the energy committee of the senate in California speak at a luncheon that day about energy issues. That's when they were having that huge energy crisis out there. This woman was very sharp. She was, I mean she was an attorney, she was working hard to get up to speed, and she was chair of the committee. She'd never even been on the committee before. Now that is not a good way to handle the very kinds of important issues that I think we have to handle. That's an extreme case I will admit that. In another handout I've given you, it shows the constitutional amendments placed on the ballot regarding term limits. And you will notice that the support for term limits has decreased each time it's been on the ballot. And that in the general election in 2000, which was the last time term limits was before the voters, it was 56 percent to 44 percent. Now I want to clarify for some of those in the audience who said that we're trying to overturn what the people have decided, no, we're all bound by what the people decide. We're bound by the constitutional provisions that they vote upon. But we also, as the first house, if you will, have the right to put something back on the ballot for reconsideration by the people. That's part of our job, too, when we think it's necessary. I guess I would also ask if open seats are the key to getting more participation, better participation, what happened up in Norfolk this year when it's open seat and only one candidate filed for office? I don't think that's the answer. I think part of the answer probably in raising salaries so that people can afford to do this. It is not easy to do. I guess that's all that I would have right now unless you have any questions. I probably could go on and on but would probably be repetitive so I will conclude my remarks.

SENATOR ENGEL: Take all the time you want.

SENATOR SCHIMEK: No, I'm finished, thank you.

SENATOR ENGEL: Are there any questions of Senator Schimek?

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If not, thank you, Senator Schimek.

SENATOR SCHIMEK: Thank you very much.

SENATOR ENGEL: Some of you who were proponents before mentioned you're testifying for all four bills; so if that was the case, it's not necessary to come up again. But anyone is welcome to and, sir, the next proponent.

ALAN PETERSON: (Exhibit 4) Senator Engel and members of the Executive Board, I'm Alan Peterson, A-l-a-n P-e-t-e-r-s-o-n. I'm a lawyer. I'm a registered lobbyist for the news media in this state, but I appear today in my own behalf only. I have had the experience of litigating the first three efforts to pass term limits in this state where the courts found, both the Nebraska Supreme Court and the federal court, that the people who arranged for the term limits to get on the ballot and successfully got it passed in terms of the election, violated the constitution themselves procedurally or in terms of trying to have a Nebraska Constitution overrule the federal constitution in terms of what the qualifications would be for various offices. The last time in 2000 they so simplified the term limits proposal it applied only to this body, the state Legislature, and the language is simple enough that apparently they finally got it right. However, I will say if there remains a legal theory to throw out this very harmful concept and idea, there will be attorneys available to file suit and try to throw it out. And we've never, me in particular and a couple of other attorneys I work with, who are not doing it for lobbying purposes of anything else, but for the sake of decent government and experienced government in our state, be glad to file suit again. In the meantime, as Senator Schimek mentioned, those who think the people should be allowed to speak freely on who should be their representatives in this Legislature voted for term limits, no doubt, 56-44 last time around. This is not an effort, any of these four resolutions, none of these efforts to overrule the people. They would simply allow the people after some reconsideration, and I hope looking at the experience nationwide, to change their mind if they see fit. I think we should and I would be glad to help in any way to see that that happens. It is particularly offensive to me, in having studied the origins of the term limits movement, to find that it rose out of literally billionaires who

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financed the start-up of U.S. term limits and including the Kato Institute which are very conservative organizations. And they have every right to promote their views, of course. But they always wanted to hide where the money came from. Enough research has been done to find a lot of it came out of Kansas, Oklahoma, and then they promoted their idea of having the citizen legislature with a short term. They had very popular short phrases for campaigns and it worked. There has been some study now in several of the states that passed state term limits. And those studies in Ohio particularly, California, and a couple of other places are showing that in fact the stated purpose disengaging money from the political election system, it's not working. I have a, I'm sorry I made only one copy, but certainly more can be made, the Indiana Law Journal just last year summarized all this research, and I'll leave this copy, Volume 79, page 427 and it runs for 80 pages or so. And it's literally research on what are the results on the campaigning process from term limits. This is very discouraging for those who think that we're going to separate excessive money, excessive incumbent power from the system. The conclusion, I'll just read a couple of sentences on page 491: "Previous studies have shown that state legislative term limits do not seem to have fostered the candidacies of a more diverse group of citizen lawmakers." "This Article's study of legislative elections in Ohio adds greater detail to the results of earlier studies in California and Michigan that term limits seem to have done little to break the close connection between financial support and campaigning for public office, or to weaken the opportunities for special interests to influence elected officials. On the contrary, candidates spent significantly more, on average, in primary contests after term limits than before them, and reliance on early campaign contributions seems to have jumped substantially." I know Senator Beutler and others of you have worked hard on campaign finance reform. Term limits is not the answer to that problem. I'll leave this one copy, of course, with you and it can be copied and distributed as you see fit. I think there's material in that study you may want to use as you consider this proposed...these four resolutions. I favor all of them. I actually like this one, LR 14CA, because it is direct. It takes care of the problem and would return the situation to where each voter can either throw out the incumbent if they're not doing a good job,

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they can fire them, or they can leave them in if they're doing a good job. I want that freedom and I want all Nebraska voters to have it so I hope they'll take another look using any one of these. Thank you very much.

SENATOR ENGEL: Thank you, Mr. Peterson. Any questions of Mr. Peterson? If not, thank you again. Next proponent. Mr. Gould.

JACK GOULD: Senator Engel, members of the board, my name is Jack Gould, that's G-o-u-l-d, and I'm here representing Common Cause Nebraska. Common Cause Nebraska has a long history in opposition to term limits. And as we listened to all the reasons here, I'm not going to restate them, but it reaffirms the fact that term limits are not in the best interests of this state government or in the best interest of the public. We believe outright repeal is the most honest, the most forthright thing to do. It raises the question, puts it directly in the people's face, and gives them an opportunity to choose. We're not against the other alternatives if that's what you choose to go with, but we would favor the outright repeal. We think that enough time has changed and there has been more debate on the issue since it was last addressed in the state that the public's view is changing. We see it in editorials and we see it in comments in all kinds of publications that the public is beginning to view the seriousness of this issue. And because of that seriousness, we believe that the senators in this Legislature have a responsibility to put it back on the ballot and to give the people a second chance to view the issue. Thank you.

SENATOR ENGEL: Thank you, Mr. Gould. Any questions of Mr. Gould? Thank you again. Any other proponents?

HERB SCHIMEK: Mr. Chairman, members of the committee, my name is Herb Schimek. I represent the Nebraska State Education Association.

SENATOR ENGEL: Would you spell that, please.

HERB SCHIMEK: S-c-h-i-m-e-k. My board of directors has taken a position for all four of these bills. Anything that will throw a shot into the concept of term limits we're for and so basically we want to be on record for all four of

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them. If you have any questions, I stand ready to answer.

SENATOR ENGEL: Any questions of Mr. Schimek? Thank you very much, Herb. Are there any other proponents?

WALT BROER: Senator Engel, members of the committee, my name is Walt Broer, B-r-o-e-r, once again appearing as a private citizen. I did want to add a few more comments. Again, I am personally for either or all of these bills or something that can be done to rectify a situation that I think we are in great danger. Senator Schimek mentioned the Norfolk area where we only had one candidate, albeit a very good candidate. I can see the day coming when we will have no candidates for one of our legislative districts at the rate this is going. I've heard comment career politicians. I think that's not a very good term because you're not in this for the money by any means because the state of Nebraska doesn't dig deep enough in pockets to pay you folks enough for the hours you put in, probably would calculate something like \$1.50, probably below minimum wage for the hours that our legislative body puts in. I think we need to take a really, really strong look at what happened. And maybe the voters are responsible for term limits if they would get out and vote. They could change the system. Thank you.

SENATOR ENGEL: Thank you very much, Mr. Broer.

WALT BROER: That will be my last testimony.

SENATOR ENGEL: Any other questions? If not, any other proponents?

LYNN REX: I'll be very brief, Senator.

SENATOR ENGEL: Thank you.

LYNN REX: Senator Engel, members of the committee, my name is Lynn Rex representing the League of Nebraska Municipalities.

SENATOR ENGEL: You'll have it done before you sit down.

LYNN REX: I'm going to go fast. We just want to let you know that we do think this is the preferable way. It's an

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outright repeal. And we think the issue has never been the issue of career politicians. It is the issue of career lobbyists. Thanks.

SENATOR ENGEL: Thank you. Any questions of? Thank you. Any other proponents? If not, do we have any opponents? Do we have anybody...oh. Sorry. Please state your name.

TROY: My name is Troy. I live in rural Nebraska and I'm...

SENATOR ENGEL: Would you please spell your name, please.

TROY: Troy, T-r-o-y.

SENATOR ENGEL: Is that it, just one name?

TROY: Yes.

SENATOR ENGEL: Okay, thank you.

TROY: I live in rural Nebraska. I'm a citizen just speaking as a citizen. The Nebraska Constitution begins with these words: We, the people, grateful to Almighty God." I'm a very spiritual person. I believe Nebraska is heading in the wrong direction and I believe term limits will help bring about change. There are different types of government such as a republic or a democracy. There's also an oligarchy. It is the type of government King George III had when Great Britain ruled over the American colonies. It is not the type of government that American founders want for America because an oligarchy is a government of the few and because oligarchies can be a small group of people who, because of greed or power, can seek personal gain over the greater good. Oligarchies can also be a small elitist group of people who think they are better than the common people. In the literature of the Nebraska Unicameral citizens legislature it says: In order to preserve the checks and balances of a two-house system, Nebraska's citizens serve as a check upon the legislative process. I believe term limits are needed to be a check on the legislative process at this time in Nebraska's history. I feel these resolutions should not have been introduced because we, the people, the second house of the Unicameral, voted for term limits and because you don't know how term limits will affect the state of Nebraska because you haven't gone through at least two

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cycles. I feel intelligent people would go through two cycles then decide and evaluate. And can I ask a question of Senator Schimek?

SENATOR ENGEL: I don't believe so. You just testify and we can ask questions of you and you can check with her.

TROY: Okay. That's all I have.

SENATOR ENGEL: Are there any other...any questions of Mr. Troy? If not, thank you very much. And I'm sure that Senator Schimek will speak to you if you want to speak to her. Are there any other opponents? If not, anybody testify in a neutral capacity? Would you like to close, Senator Schimek? She waives closing. That will end the hearing on LR 14CA and next up would be LR 3CA, Senator Beutler, who has the next two bills.

LR 3CA

SENATOR BEUTLER: (Exhibit 5) My name is Chris Beutler, I represent a part of Lincoln in the Legislature, Legislative District 28. Mr. Chairman, I'll keep it very short with respect to the arguments for and against term limits. But let me make a couple of preliminary remarks and tell you what the bill does real quick and why I'm introducing the bill. First of all, just speaking in response to some of the comment with regard to the sovereignty of the people. I don't think that there's anybody in the Legislature that is not on a day-by-day basis conscious...who's not conscious of the sovereignty of the people. Every day I hear people talking about what my constituents would say, what they would think. Every day they're going down to their offices, half the time off the floor, talking to their constituents about what they think. Or Senator Erdman is driving back and forth between the Panhandle of the state of Nebraska and Lincoln trying to find out on a weekly basis by traveling there what his constituents think during the session. The spirit of the people of Nebraska, the spirit of sovereignty pervades in the legislative Chamber. That's a simple fact in my opinion, and the voice of the people is highly respected. Having said that, it is not unfair to explore the meaning and intent of the people in what they have said with regard to term limits or with respect to what they

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might believe would be a better solution than an outright term limit of eight years. There is nothing disrespectful or arrogant about exploring those kinds of questions on a very, very important issue that involves, my God, the lawmaking body of the whole people. It deserves that kind of consideration. Nor would I say that it is wrong to present to the people the same, the very same proposition they voted for and ask them to reconsider. Individuals make mistakes, society makes mistakes, history is replete with societal mistakes that are corrected at later points in time in history. One brother should ask another, a sister should ask a sister, did you do the right thing? It's not arrogant to ask for a reconsideration. And in fact, in our own legislative body among ourselves, we ask for that very thing in the form of a motion for reconsideration when we've acted too hastily. And typically every legislative session on a half a dozen occasions we will reverse ourselves on the second stage of debate or even on the same stage of debate on motions to reconsider. Having said that, I also want you to know that my people voted no. So to the extent that I'm representing my people in the Legislature, my district, I am representing the majority of opinion when I ask you to consider repealing term limits or to consider modifications to term limits. Lancaster County as a whole voted 50.4 percent for it, just barely for it. And it's interesting to me since I was on the...I wanted to see how the people of my district had voted and since Senator Chambers was on this committee with me, I looked to see how his people voted. How do you think they voted? They voted against term limits, indicating that perhaps experience means something to people who are represented by people with experience, maybe. It may mean a lot of things. But the bill I have before you at the moment is not a straight outright repeal of term limits exactly. There is a twist, and that twist is that the repeal is dated January 1, 2010, which means that every senator who is in the Legislature at the time that term limits was voted on by the people will, in fact, be turned out of office even if this proposition is approved by the people when they vote on it the next available time. The reason I propose that is simply time after time as people have come up and talked to me about this, I, theoretical, idealistic fellow that I am, I hate to admit it, but sometimes I think honestly that a portion of the people voted on the basis not of the idea itself but on the actual current members of the Legislature at the time.



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They may not have liked Chris Beutler. They may not have liked Ernie Chambers. They may not have liked others. If that's the reason they voted for term limits, if that's the reason that even 7 percent of the 56 percent voted against term limits, then for the good of protecting the institution in the long term I'm suggesting to you with this bill that we separate those two crowds with a bill that assures that everybody who they might have disliked in the Legislature is term limited out. But the idea then of term limits then is voted upon, not on the basis of personalities but on the basis of whether the idea itself is good for society. That's really all I have to say about this particular bill.

SENATOR ENGEL: Are there any questions of Senator Beutler? I see none, thank you, Senator Beutler. Are there any proponents? Any opponents? Anybody testifying in a neutral capacity? I see none. That concludes the hearing on LR 3CA and, Senator Beutler, you can...

SENATOR BEUTLER: I thought I could close, Mr. Chairman.

SENATOR ENGEL: You told me you didn't want to. Would you like to? I could reconsider. (Laughter)

LR 5CA

SENATOR BEUTLER: (Exhibit 6) Just so you don't wipe out my opening on this bill. I'm going to save you some of these handouts because you've gotten similar information from Senator Schimek. And I will be again short with this one, Mr. Chairman, because this one was before you a year ago. This is basically the idea that instead of having representatives term limited out at the end of eight years, at the end of eight years they could continue to run. But those who were serving their third, fourth, and any terms thereafter would be subject to recall. As you know, state senators are not currently subject to recall. I don't particularly like some forms of recall. Others I have no problem with. But it may well be that people would be satisfied with having a shorter tether on their representatives rather than turning them out altogether. And so with that idea in mind, I present to you this kind of alternative. But basically it allows for recall of state senators after the second term. It would require a

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25 percent...a signature signed by 25 percent of the total votes cast for office in the last election. In my district, for example, that would have been 1,650 votes. It allows you to get those signatures in 90 days. It provides for when the recall petition can be filed and when it cannot, limits the number of times you can file it; affords a person recalled the opportunity to resign and provides for election procedure in the case they do not. If they are turned out of office, the vacancy is filled by the Governor under current vacancy provisions in the Nebraska statutes. The bill provides no limitations with respect to the reasons for which you could have a recall. Having said that, keep in mind as we discuss this that the form of the recall can be shaped in a number of ways. It can be shaped with regard to the number of signatures you require on a petition to make it harder or easier. It can be shaped by the number of days that you have to file a petition to make it harder or easier. And it can be shaped by the rationale that you're allowed to use to recall to make it easier or harder. I basically like and I don't know if you received or not information with regard to what other states do on recall, but I like the law of the state of Georgia which is somewhat narrow and relates to recalls for misconduct in office, for misdemeanors or felonies, and for other types of misconduct, but not necessarily for every particular action or any particular vote you may have made. So this can be shaped in a number of ways. There is an argument I would make related to perhaps why we should have recall in Nebraska based on our structure. There's no House in Nebraska. Usually in most states, as you know, you have a House of Representatives and their term of office is very short. And then you have a Senate and their term of office is considerably longer generally speaking. In Nebraska, we have one House, one term of office. If you wanted to throw in a provision that brought us, at least part of us, closer to the people in time or in touch or by legal mechanisms, you could advocate this recall as something that we need in Nebraska because of the structure of our government. With that, Mr. Chairman, I think I've said everything I needed to say on that.

SENATOR ENGEL: Are there questions of Senator Beutler?  
Senator Brashear.

SENATOR BRASHEAR: Senator Beutler, notwithstanding the

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flexibility which you cite as having been built into your drafting of LR 5CA, I note that you don't allow the registered voters of one district to recall a legislator from another legislative district.

SENATOR BEUTLER: No.

SENATOR BRASHEAR: So you really haven't addressed what it is that was being addressed by some percentage of people when they voted for term limits. It was the chance to govern who my representative was or your representative was even if they didn't live in that district and didn't have a franchise in that district. Isn't that true?

SENATOR BEUTLER: Well, I think that may have been the reason that some people voted the way they did. I understand what you're getting at. But obviously that's not a principle of government that anyone would espouse on its face particularly.

SENATOR BRASHEAR: So you'd be opposed to amending this so that people of one legislative district can decide who represents another legislative district by recall?

SENATOR BEUTLER: I think I would be opposed to that.

SENATOR BRASHEAR: Okay, thank you.

SENATOR ENGEL: Are there any other questions?

SENATOR CUDABACK: Good point.

SENATOR ENGEL: If not, thank you, Senator Beutler. Would you like to close?

SENATOR BEUTLER: No, I'll waive closing.

SENATOR ENGEL: Okay, thank you. Are there any proponents? Any opponents? Anyone testifying in a neutral capacity? Senator Beutler has waived closing. That will end the hearing on LR 5CA and that will end the hearings for today. Thank you. Oh, sorry. I have one comment. The State Chamber of Commerce and the Nebraska Farm Bureau presented letters of support for all of these so that will be in the record (Exhibits 7 and 8).